

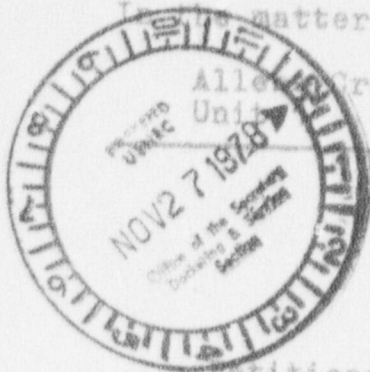
UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY & LICENSING BOARD

11/21/78

In the matter of:

Allegheny Creek Nuclear Generating Station

DOCKET No. 50-466



ARMADILLO COALITION OF TEXAS (HOUSTON) & JOHN F. DOHERTY'S (AS AN INDIVIDUAL) AMENDMENT TO CONTENTION #1, AND REQUEST FOR ADMISSION OF THE AMENDMENT UNDER 10 CFR 2.758 (b).

Petitioner's contention #1 was served on parties in "N.R.C. Staff Response to Contentions of Armadillo Coalition and John F. Doherty" of November 29, 1978.

At the Special Prehearing Conference of November 17, 1978, the board indicated to petitioners that contention #1 could be modified provided it was so done by "next Wednesday" (November 22, 1978). Petitioners further note a licensing board has wide latitude to permit the amendment of defective petitions prior to the issuance of final orders on intervention. (Northern States Power, Prairie Island Nuclear Generating Plant, Units 1 & 2, 6 AEC 188, 194, (1973).

TEXT OF AMENDMENT TO CONTENTION #1

Petitioners submit that since the conclusion of the ASLAB partial hearing of December, 1975, Harris County, which is largely Houston, has been declared a "non-attainment" area for ozone, and particulate air pollution by the Environmental Protection Agency (EPA). In both pollutant categories, Harris County has not achieved the primary National Ambient Air Quality Standard (NAAQS). At hearings held November 9, 1973, the Texas Air Control Board (TACB) requested a five year extension for compliance to this standard from EPA. Petitioners contend their health interests will be injured by the addition of radio-active isotopes emitted in the air from the plant during normal operation or unscheduled releases, because the radio-active isotopes in combination with ozone and/or particulates are more injurious to petitioner's health interests than the radio-active isotopes alone.

Petitioners seek either:

- (a) The construction license be deferred until Harris County is in compliance with NAAQS for ozone and particulate pollutants,
- (b) The plant be constructed with greater control on radwaste emissions
- (c) Both of the above.

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REQUEST FOR ADMISSION OF
CONTENTION UNDER 10 CFR 2.758 (b)

Applicant and staff have objected to the admission of contention #1 because it is an impermissible challenge to

10 CFR 50 Appendix I, a regulation of the Commission. Petitioners submit that as amended, Contention #1 is suitable for admission under the "special circumstances" rule of 10 CFR 2.758 (b).

The purpose of 10 CFR 50 App. I is to protect the health of the public residing in proximity to the site from radio-activity. This is most strongly evidenced by Section 2 (A) which sets a limit of radio-active dosage from an LWR to a human body or human organ in unrestricted areas. Further, the regulations in the Appendix are to "assist applicant for . . . light-water-cooled nuclear power reactor in meeting the requirements of 10 CFR 50.34(a) . . ." which requires applicants to control gaseous effluents produced during normal operations as low as is reasonably achievable. While 50.34(a) balances technology plus costs with benefits to the public health and safety, it is clear that but for the dangers of radiation the regulation would be unnecessary. That is, because radiation dosage to the public must be controlled it is necessary to have the regulation exert its influence on the construction of LWRs.

Application of 10 CFR 2.758 (a) to contention #1 as amended would cut off consideration of protection of human health in the exceptional circumstance of a city which may reasonably be expected to receive a portion of the burden of radio-active isotopes emitted from the plant in normal operation and is already burdened by the presence of over abundant pollutants in excess of the health guidelines of the regulatory agency assigned to monitor such pollutants.

Petitioner submits that the air pollution situation in Harris County creates a "special circumstance" under 10 CFR 2.758 (b) and that rejection of Contention #1 as amended because it is an impermissible challenge to 10 CFR 50 App. I would defeat the very purpose for which 10 CFR 50 App. I was adopted.

Respectfully submitted:

John F. Doherty 11/21/78
an individual, and representing
Armadillo Coalition of Texas (Houston).

AFFIDAVIT

I, John F. Doherty set forth that I have direct personal knowledge of the truth of the statements setting forth the special circumstances in the above action as regards the air quality of Harris County, and that such excess of ozone and particulates justify consideration of the radiation level from the proposed plant as a special circumstance, in the construction licensing hearing. I further aver that the special circumstances described would make application of the rule, 10 CFR 2.758(a) not serve the purposes of 10 CFR 50 Appendix I.

Subscribed and sworn to by me, John F. Doherty on this day, November 21, 1978, in behalf of Armadillo Coalition of Texas (Houston).